Court No. 2

Writ Petition No.2930/2001(S/S)
(Old No.29368 of 1998)

Smt. Veena Semwal ……. Petitioner

Versus

The District Magistrate,
Tehri Garhwal and others ……. Respondents
…..

Hon. P.C.Verma, J.
Hon. Irshad Hussain, J.

Heard Sri S.Dhulia, learned counsel for the petitioner and learned C.S.C.

In this case no counter affidavit has been filed by the State despite several opportunities being given. Since the termination letter of the petitioner was of 1998, therefore, we have no option but to decide the case on merit on the material available on record.

This writ petition has been filed against the termination order dated 31.08,1998. The petitioner was appointed as clerk on 30.4.1997 in District Tehri Garhwal. The services of the petitioner have been terminated by the impugned order on the ground that the appointment of the petitioner was subject to the approval by the Board of Revenue and there are only three posts which are to be filled up and there is no vacancy in the district in class III. Learned counsel for the petitioner has annexed a letter of the Board of Revenue dated 24.8.1998 contained in Annexure 5 to this writ petition by which it has been informed to the District Magistrate that since the District Magistrate is the appointing authority, there was no need to seek approval from the Board of Revenue. There is a further document on record contained in Annexure 3 to this writ petition, letter of Board of Revenue which contained strength of the Ahalmad which is four. Therefore, the basis of the termination order that there were only three posts is wrong. There are four posts as per letter dated 4.9.1996 Annexure 3 to the writ petition. Since the order has been passed by the Collector without taking into account these

facts, the impugned order suffers from non application of mind and is liable to be set aside. Therefore, the termination order dated 31.08.1998 is hereby set aside.

The petitioner is reinstated in service. However, she will not be paid any back wages.

The petition is disposed of accordingly.

(P.C.Verma, J.) **(Irshad Hussain, J.)**

Dt. 27.05.2002
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